

SUPPORT FOR THE AMENDMENTS

The present amendment cancels claims 38 and 44, amends claims 21, 36 and 37, and adds new claims 45-71.

Support for the amendment to claim 21 and 36, and newly added claims 45, 46 and 69-71, is found at specification page 7, lines 1-7, as well as previously presented claim 44.

Support for newly added claim 47, 48, 62 and 68 is found at specification page 2, lines 30-31, and page 6, lines 21-28, as well as previously presented claims 21, 26 and 28.

Support for newly added claims 49, 50, 66 and 67 is found at specification page 3, lines 1-4, as well as previously presented claims 22, 23, 41 and 42.

Support for newly added claim 51 is found at specification page 8, lines 1-5, as well as previously presented claim 24.

Support for newly added claim 52, 53, 64 and 65 is found at specification page 5, lines 30-31 and 37, and page 9, lines 4-6, as well as previously presented claims 25, 38-40 and 43.

Support for newly added claims 54 and 55 is found at specification page 2, lines 33-34, and page 6, lines 30-36, as well as previously presented claims 27 and 29.

Support for newly added claims 56-61 is found at specification page 3, lines 11-34, as well as previously presented claims 30-35.

Support for newly added claim 63 is found at specification page 7, lines 36-39, page 9, lines 4-6, as well as previously presented claim 37.

It is believed that these amendments have not resulted in the introduction of new matter.

REMARKS

Claims 21-37, 39-43 and 45-71 are currently pending in the present application. Claims 38 and 44 have been cancelled, claims 21, 36 and 37 have been amended, and new claims 45-71 have been added, by the present amendment.

The rejection of claims 21-44 under 35 U.S.C. § 103(a) as being obvious over Abramo (U.S. Patent 5,089,028) in view of Schwahn (U.S. 2003/0140552) is respectfully traversed in part, and obviated by amendment, with respect to claims 21-37, 39-43 and 45-71, which adds new claim 48, and incorporates into amended claim 21 the limitation of now cancelled claim 44.

Amended claim 21 now recites, in part, that the *additive does not comprise a carrier oil*.

New claim 48 recites, in part, that the *additive is selected from the group consisting of a polyisobutenamine, a polyetheramine, a product obtained by Mannich conversion of a substituted phenyl with an aldehyde and an amine, and combinations thereof*.

A reference must be considered in its entirety, including disclosures that teach away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983).

Abramo describes a gasoline fuel additive composition comprising: (1) 10-80 wt. % of a polyalkylene succinimide (e.g., polyisobutenyl succinimide); and (2) a carrier fluid comprising: (a) 10-80 wt. % of an olefin polymer; (b) 1-80 wt. % of an ester; (c) 1-80 wt. % of a polyether; and (d) 0-80 wt. % of an optional mineral oil or synthetic oil (See e.g., abstract, column 1, lines 7-13 and 53-65, column 3, lines 11, 24-27 and 52-57, column 4, lines 25-30, column 5, lines 8-11, claims 1, 2, 5-8, 11 and 12).

Abramo explicitly states that “the invention relates to a fuel additive comprising a combination of a polyalkylene-substituted succinimide as a detergent/dispersant and a carrier fluid” (See e.g., column 1, lines 8-11).

Therefore, unlike the claimed invention, wherein the *additive does not comprise a carrier oil* (amended claim 21) or the *additive is selected from the group consisting of a polyisobutenamine, a polyetheramine, a product obtained by Mannich conversion of a substituted phenyl with an aldehyde and an amine, and combinations thereof* (new claim 48), the gasoline fuel additive composition of Abramo *necessarily contains both a carrier fluid and a polyalkylene-substituted succinimide*.

Contrary to page 7, lines 3-5 of the Official Action, the carrier fluid is a necessary component of the gasoline fuel additive composition of Abramo. Abramo explicitly states that the “carrier fluid contains less than 80 wt. %, *i.e.*, at least 10 to 25% to at most 70 to 80%, preferably 20 to 50%, by weight of the total weight of the additive, of a polymer or copolymer of an olefinic hydrocarbon” (emphasis added) (See e.g., column 3, lines 24-27). The term “i.e.” is an abbreviation of the Latin phrase “id est” which means “that is.” Accordingly, while Abramo describes that the carrier fluid contains less than 80 wt. % of the olefin polymer, Abramo explicitly states that the olefin polymer must nevertheless be present in the carrier fluid in an amount of from at least 10-25 wt. % to at most 70-80 wt. %. Therefore, the weight percent range mentioned on page 7, lines 3-5 of the Official Action, refers not to the carrier fluid itself, but rather to the requisite olefin polymer component of the carrier fluid.

As a result, a skilled artisan would neither have been motivated nor had a reasonable expectation of success to arrive at the process of the present invention, as recited in claims 21 and 48, based on the disclosures of the cited references, absent impermissible hindsight reconstruction, thereby precluding a *prima facie* case of obviousness.

Withdrawal of this ground of rejection is respectfully requested.

The rejection of now cancelled claim 44 under 35 U.S.C. § 112, first paragraph (written description), is respectfully traversed, with respect to amended claim 21, which incorporates therein the limitation of now cancelled claim 44.

The originally filed specification is alleged as failing to provide adequate written description for the negative limitation explicitly excluding a carrier oil from the additive. With respect the exclusionary proviso explicitly excluding a carrier oil, it is a well-settled premise of patent law that a negative limitation or exclusionary proviso explicitly excluding an element from a claim is permissible, especially when the element recited in the negative proviso is positively recited in the specification. See MPEP § 2173.05(i) and *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (the specification, having described the whole, necessarily described the part remaining). *Carrier oils are positively recited in the originally filed specification* (See e.g., page 7, lines 1-7). Therefore, the negative limitation explicitly excluding a carrier oil from the additive recited in amended claim 21 has not resulted in the introduction of new matter.

Withdrawal of this ground of rejection is respectfully requested.

In conclusion, Applicants submit that the present application is now in condition for allowance and notification to this effect is earnestly solicited.

Respectfully submitted,

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